

Message Text

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ACTION L-03

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C O N F I D E N T I A L CARACAS 1024

E.O. 11652: GDS
TAGS: ENRG EINV VE
SUBJECT: OIL COMPANY PROBLEMS -STATUS OF MAJOR ISSUES

REF: (A) 77 CARACAS 9936 (B) STATE 19438
(C) STATE 22920

1. IN RECENT WEEKS, THERE HAVE BEEN A NUMBER OF IMPORTANT DEVELOPMENTS AFFECTING THE CONTINUING INTERESTS OF THE MAJOR OIL COMPANIES IN VENEZUELA. WHILE MOST OF THESE DEVELOPMENTS HAVE BEEN REPORTED SEPARATELY, THERE STILL MAY BE SOME CONFUSION ON THE PART OF INTERESTED OFFICES IN WASHINGTON AS TO THE CURRENT STATUS OF THESE ISSUES. THE FOLLOWING THEREFORE ATTEMPTS TO PROVIDE A BRIEF SUMMARY OF THE STATUS OF EACH OF THESE MAJOR ISSUES..

2. ASSET DEDUCTIONS.SIX OF THE TEN EX-CONCESSIONARIES HAVE NOW SIGNED THEIR ACTA, THUS FOR PRACTICAL PURPOSES ACCEPTING THE CLAIMS AGAINST THEM. THESE ARE AMOCO, CHEVRON,GULF, PHILLIPS, SHELL AND SUN. EXXON HAS BEEN ADVISED OF REDUCTIONS IN THE CLAIMS AGAINST ITS ASSETS, BOTH WITH RESPECT TO ITS CREOLE PROPERTIES AND ITS SHARE OF MENE GRANDE, BRINGING THESE CLAIMS DOWN TO ABOUT 8 PCT OF ITS COMPENSATION. EXXON'S MANAGER TOLD THE AMBASSADOR HE WILL PROBABLY NOT SIGN THE ACTA ON PRINCIPLE, BUT THAT HE CAN "ACCEPT" THIS LEVEL OF CLAIMS,AND HE HAS ALREADY PUT THIS
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PROBLEM BEHIND HIM. ARCO, WHICH HAD REFUSED TO SIGN THE ACTA RELATING TO ITS SINCLAIR PROPERTIES, HAS NOW BEEN UNOFFICIALLY ADVISED THAT THERE WILL BE SOME REDUCTIONS IN THESE CLAIMS. WHILE THE RESULTING LEVEL OF CLAIMS AGAINST SINCLAIR MAY STILL BE HIGH (ROUGHLY 75 PCT OF COMPENSATION) AND ARCO IS THEREFORE UNLIKELY TO SIGN ON PRINCIPLE, THE COMBINED CLAIMS AGAINST THE TWO ARCO PROPERTIES (ARCO SINCLAIR AND VARCO) ARE ESTIMATED TO AMOUNT TO ABOUT

30 PCT OF COMPENSATION (SEE CARACAS 286). MOBIL AND TEXACO HAVE NOT BEEN INFORMED OFFICIALLY OF FINAL DECISIONS, BUT THEY UNDERSTAND THERE WILL BE REDUCTIONS FROM PREVIOUS FIGURES. THE MINISTER OF ENERGY'S RESOLUTION OFFICIALLY FIXING THE AMOUNT OF DEDUCTIONS IS BELIEVED TO BE HELD UP PENDING RESOLUTION OF THE CASES OF MOBIL AND TEXACO. EXXON AND GULF ARE REQUESTING THAT MOST OF THE REMAINDER OF THEIR GUARANTEE FUNDS BE RELEASED ONCE THE ASSET DEDUCTION HAS BEEN MADE (REF C AND CARACAS 871).

3. BACK INCOME TAX CLAIMS. ALL OF THE COMPANIES ARE UNDERSTOOD TO HAVE PROVIDED A BREAKDOWN OF THE PENDING INCOME TAX CLAIMS TO THE SPECIAL TAX COMMISSION CREATED BY THE MINISTRY OF FINANCE TO REVIEW THESE CLAIMS. THIS COMMISSION, RECENTLY INCREASED FROM THREE TO FIVE MEMBERS, IS SCHEDULING REGULAR MEETINGS WITH EXXON TO REVIEW THESE CLAIMS ON A CASE BY CASE BASIS AND TO REACH AN OVERALL SETTLEMENT WITH THE COMPANY. THE MINISTER OF FINANCE ADVISED THE AMBASSADOR THAT THE GOV IS MOVING TO SETTLE THESE CLAIMS AS RAPIDLY AS POSSIBLE AND THAT THE PROCEDURE INITIATED WITH EXXON WILL ALSO BE APPLIED TO THE OTHER COMPANIES (SEE CARACAS 871).

4. COMPTROLLER GENERAL'S CLAIM. THE MINISTER OF FINANCE ADVISED THE AMBASSADOR (CARACAS 871) AND PRESIDENT PEREZ ADVISED MOBIL'S PRESIDENT (CARACAS 492) THAT THE EXECUTIVE BRANCH IS TRYING TO SPEED UP A DECISION ON THESE CLAIMS IN THE TAX COURT. ONCE THIS HAPPENS, AND THE CASE IS APPEALED TO THE CONFIDENTIAL

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SUPREME COURT, THEY GAVE ASSURANCES THAT THE ATTORNEY GENERAL WILL PRESENT TO THE COURT THE EXECUTIVE BRANCH'S POSITION IN OPPOSITION TO THE COMPTROLLER'S CLAIM. THE REVISED LEGAL OPINION OF GULF OIL ATTORNEYS ON THE APPARENT LIMITS OF GOV EXECUTIVE BRANCH INTERVENTION IN THIS CASE (REF C) AGREES IN GENERAL WITH WHAT WE HAVE BEEN TOLD BY THE MINISTER OF FINANCE (CARACAS 208 AND 871). CONTRARY TO THE VIEW EXPRESSED BY GULF ATTORNEYS, HOWEVER, A PROMINENT LOCAL ATTORNEY HAS CONFIRMED TO US THAT THE TAX COURTS ARE PART OF THE JUDICIAL BRANCH AND ARE NOT UNDER THE DIRECTION OF THE TREASURY. THE AMBASSADOR, IN HIS INITIAL MEETING WITH THE MINISTER OF FINANCE, MADE IT CLEAR THAT IN THE US THE ATTORNEY GENERAL COULD OPPOSE A SIMILAR CLAIM IN THE COURTS (PARA 3 OF REF B). FINAL SENTENCE IN PARA 5 OF CARACAS 208 REFERRED TO POLITICAL AND NOT LEGAL ASPECTS OF CASE.

5. TECHNICAL SERVICES CONTRACTS. FOUR OF THE ORIGINAL NINE TECHNICAL SERVICES CONTRACTS HAVE BEEN EXTENDED FOR AN ADDITIONAL TWO YEARS WITH SOME MODIFICATION OF THEIR TERMS (CARACAS 223). THESE ARE EXXON, SHELL, GULF AND WE BELIEVE, PHILLIPS. SUN OIL HAS NEGOTIATED AND SIGNED A COMPLETELY NEW

CONTRACT REPLACING THE ORIGINAL (CARACAS 661). TEXACO HAS RECEIVED A THREE-MONTH EXTENSION OF ITS ORIGINAL CONTRACT AND IS NEGOTIATING A FURTHER EXTENSION OR A NEW CONTRACT. MOBIL'S ORIGINAL CONTRACT APPARENTLY HAS LEGALLY BEEN CANCELLED, BUT THE COMPANY IS DISCUSSING A NEW CONTRACT. THE CONTRACTS WITH AMOCO AND CHEVRON HAVE BEEN CANCELLED ALTHOUGH CHEVRON IS ALSO DISCUSSING A NEW AGREEMENT. IN ADDITION, THE TECHNICAL SERVICE CONTRACTS WITH THE THREE VENEZUELAN OIL COMPANIES WHICH WERE ALSO NATIONALIZED WERE CANCELLED IN 1977.

6. OFFTAKE MARKETING AGREEMENTS. ALL OF THE ORIGINAL TEN OFFTAKE AGREEMENTS REMAIN IN FORCE WITH THE POSSIBLE EXCEPTION OF ARCO'S WHICH WAS REPORTEDLY CANCELLED BY THE COMPANY. THESE CONTRACTS REPORTEDLY CONTAIN PROVISIONS FOR A GRADUAL
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PHASE-OUT OF THE OFFTAKE OF INDIVIDUAL PRODUCTS BY THE COMPANIES IF AGREEMENT ON PRICE OR OTHER FACTORS IS NOT REACHED. SOME OF THE COMPANIES, NOTABLY EXXON, HAVE USED THIS PROVISION TO REDUCE THEIR OFFTAKE OF SOME ITEMS SUBSTANTIALLY (CARACAS 845 AND 1020).
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